IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 9787 of 1995

Between:

K.N.Bheemalinga Sastry, S/o.late K.Chenchu Subbaiah,
Besthavaripet, Prakasam District.

..... PETITIONER

AND

Authorised Officer, Land Reforms Tribunal,
Sub-Collector, Kandukuru, Prakasam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari, quashing the notice issued by the respondent in CC/1973/KANIGIRI/75, Dt.18/4/1995 as the same is illegal, arbitrary, unconstitutional void and without any power or jurisdiction and consequently direct the respondent to accept the surrender of the land of Ac.3.48 cents in old S.No..91, New S.No.100/1 of Pragallapadu Village, Besthavaripet Mandal, Prakasam District.

Counsel for the Petitioner: MR.T.RAJENDRA PRASAD

Counsel for the Respondent: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition is filed seeking to quash the notice issued by the respondent in C.C./1973/KANIGIRI/75, dated 18.04.1995, and consequently, direct the respondent to accept the surrender of the land admeasuring Ac.3.48 cents in Old S.No.91, New S.No.100/1 of Pragallapadu Village, Besthavaripet Mandal, Prakasam District.

Learned counsel appearing for the petitioner has submitted that earlier, in C.R.P.No.1838, this Court passed an order on 15.11.1988, which reads as under: -

> "The petitioner is directed to submit the rough sketch localizing the land in an extent of Ac.6.48 cents, which he intends to surrender, within two weeks from the date of this order to the authorities concerned and also no-objection certificate from the other joint owners or a joint memo. In case the petitioner fails to comply with this direction within the said period, the authorities would be at liberty to take surrender of some other land, which they are at liberty to choose. The revision petition is accordingly allowed. No costs. Advocate's fee Rs.200/-."

The learned counsel further submitted that pursuant to the aforesaid order, the petitioner has already offered the lands for surrender by filing No Objection Certificate from the co-owners. But, however, the tribunal has not accepted the same observing that the petitioner has no enjoyment over the said land. Learned counsel has further submitted that the tribunal cannot refuse to accept the surrender of the land in question inasmuch as the same has not been converted into non-agricultural land. In support of his submission, he relied upon a decision of a Division Bench of this Court in **Shyama lamma Vs. State of A.P.** wherein it was observed as follows: -

> "According to Sec.10(5) of the Act, the tribunal can refuse to accept the surrender of any land only if it has been converted into non-agricultural land and has been rendered incapable of being used for purposes of agriculture and the surrender is not acceptable on account of any dispute as to the title to the land or on account of the land being in possession of any person mentioned in item (v) of clause (i) of Section 3 or on account of the land proposed to be surrendered becoming inaccessible by reason of its severance from the remaining part of the holding."

In view of the above decision and also in view of the fact that the tribunal has refused to accept the surrender of the land in question offered by the petitioner without any basis, though the co-sharers have submitted their No Objection Certificates for surrender of the land in question and the said land has not been converted into non-agricultural land, it would be suffice, in the interest of justice, if the matter is remitted to the tribunal for passing appropriate orders, preferably, within a period of three months from the date of receipt of a copy of this order.

With the above observation, the writ petition is allowed and the impugned order is set-aside. No order as to costs.

11-11-2004

DR

That Rule Nisi has been made absolute as above.

Witness the Hon’ble Sri Devinder G

upta, the Chief Justice, on this Thursday, the Eleventh Day of November, Two Thousand and Four.

To

1. Authorised Officer, Land Reforms Tribunal,
Sub-Collector, Kandukuru, Prakasam District.

2. Two CCs to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (OUT)

3. Two CD copies